

REMARKS

Claims 1-25 are pending in the application. Claims 20-25 have been withdrawn from consideration and have been canceled by this amendment.

Claims 1, 2, 5-9, 11-13, and 15-19 stand rejected under 35 USC §102(e) as anticipated by Sehr.

Claim 1 has been amended to include claim 8, i.e. that vending machine contains age-restricted items. Sehr teaches that a vending machine can be used to verify someone's age and issue or certify a card that indicates that the cardholder is above a certain age. Sehr provides a few examples of age-restricted transactions, one of which is the purchase of alcohol. See paragraph 126 which is reproduced in part below.

"The adult visitors also decide to have their age verified and stored in the card, so as to use the card afterwards for the purchase of alcoholic beverages. ... When presented, for example, for the purchase of beer, the card will be inserted into the POS terminal and the age stamp stored therein will be verified. The terminal checks the stamp's authenticity and if authentic, computes the visitor's age by subtracting the DOB data included in the stamp from the present date provided by the terminal's computer clock. If the age is at least 18/21 years, the purchase is approved; otherwise, a message conveyed that no beer can be sold to that cardholder. In the case, the card-based DOB is protected via the visitor's biometrics, the cardholder has to provide the identical biometrics as well. The biometrics stored in the card will be compared against the "live" one provided by the cardholder, and if there is a match, the purchase will be confirmed; otherwise, service will be denied. The purchase of beer will also be denied if the card-based picture does not match the cardholder per se; unless the above biometrics verification is successful. After approval, the monetary value stored in the card will be used to pay for the beer; the value will be deducted in the card and forwarded to the merchant. The merchant communicates the payment received to the transaction processor for clearing purposes." [Emphasis added.]

Paragraphs 127 and 128 also discuss the sale of alcoholic beverages and in every case, there is mention of a “merchant”, i.e. a human. In no instance is there any suggestion that an alcoholic beverage be sold in a vending machine. This is very telling because it is clear from reading the Sehr disclosure that the author was attempting to cover as many variations and different embodiments possible. Thus, if it had occurred to the author of the Sehr application that the system could be used to dispense beer from a vending machine, it is likely that it would have been mentioned.

It is respectfully submitted that there is no teaching or suggestion in the art of record to dispense an age-restricted product from a vending machine as is claimed in amended claim 1. Therefore it is submitted that claim 1 is neither anticipated nor suggested by the art of record. Claims 2-7, 9 and 11 depend from claim 1 and are thus allowable as well.

Claim 8 has been canceled. Claim 12 has been amended to clarify that the user interface appears to be that of a machine when in fact, the machine is being operated by a remote human operator. Although Sehr suggests that a vending machine can be controlled by a remote human operator, there is no suggestion in Sehr that this fact be concealed from the customer. It is an important feature of the invention that the customer never be aware that another human is involved in the transaction. See the specification as filed at page 2, lines 21-22 and pages 4-5, for example.

It is respectfully submitted that there is no teaching or suggestion in the art of record to provide a vending machine which is controlled by a remotely located human but which gives the appearance of operating autonomously. Therefore it is submitted that claim 12 is neither anticipated nor suggested by the art of record. Claims 13-19 depend from claim 12 and are thus allowable as well.

Claims 3, 4, 10 and 14 stand rejected under 35 U.S.C. §103(a) as obvious over Sehr in view of Collier et al.


With regard to claims 3, 4 and 14, the Examiner does not rely on Collier but takes official notice that video displays with animated characters are well known and that one of ordinary skill would make use of these standard items “to take advantage of reliable off-the-shelf items.”

Although the Examiner may rely on official notice regarding things well known in the art, the Applicant is entitled to demand that the Examiner cite a reference. Pursuant to MPEP §2144.03, the Applicant respectfully requests that the Examiner cite a reference that teaches or suggests using an animated character on a video screen in a vending machine as an interface between the user and the vending machine. The Examiner’s statement regarding “off-the-shelf items” would render every invention obvious if it were made with known components and thus it is not an incentive to combine anything.

With regard to claim 10 which is now in independent form, the Examiner relies on Collier for the teaching of a sobriety interlock in a vehicle. In Collier it is stated that the sobriety lock can be used with "many types of machinery". It is clearly implied that machinery referred to is machinery which could cause injury or death if operated while under the influence of alcohol, not a vending machine. See, e.g. col. 1 of Collier. Furthermore, the Examiner reasons that it would have been obvious for "controlling remote unsupervised mechanisms..." However, claim 10 does not concern an unsupervised mechanism. It clearly refers to a vending machine which is controlled by a remote human operator. Therefore, the Examiner's stated incentive is actually a disincentive which points away from the invention.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,



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